

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**932 BAIL APPLICATION NO.625 OF 2021**

**SONAJI @ SONU SHIVAJI DHAVALÉ  
VERSUS  
THE STATE OF MAHARASHTRA**

Shri. S. J. Salunke, Advocate h/f Shri. Gautam J. Pahilwan,  
Advocate for the applicant  
Smt. D. S. Jape, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.**

**DATED : 31<sup>st</sup> August, 2021**

**PER COURT :-**

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail.

2. Facts leading to this application are that the applicant and the deceased Yogesh Niware were drinking liquor on the day of the incident in the liquor shop of Sachin Subhash Jagtap. There was a quarrel between the deceased Yogesh and the applicant. Thereafter the dead body of the deceased was found somewhere between petrol pump and marriage hall. On taking up the investigation it was revealed that deceased and the applicant were together. Thereafter the deceased was found dead with injuries on his person.

3. Learned counsel Shri. Salunke h/f Shri. Pahilwan, learned counsel for the applicant submits that the applicant does not have any criminal antecedents. The statement under Section 161 of the Criminal Procedure Code show that the deceased was seen chasing the applicant. The witnesses had seen the applicant dragging the deceased towards electric DP and the applicant was beating the deceased with kicks and fist blows. He submits that the statements under Section 164 of Criminal Procedure Code of these witnesses show that they did not say anything about the incident in question. Learned counsel Shri. Salunke submits that at the most the offence would be under Section 325 of the Indian Penal Code. The applicant had no intention to cause the death of the deceased but only to cause him serious injuries.

4. Learned APP Smt. Jape submits that there was previous enmity between the applicant and the deceased. The CCTV footage shows that the applicant had removed the keys of the motorcycle of the deceased and the deceased was found chasing the applicant. She states that statement under Section 161 of the Code of Criminal Procedure clearly

shows that deceased was subjected to beating by the applicant. Post-mortem report shows that the deceased died due to head injury. Therefore, the applicant may not be released on bail.

5. On perusal of the charge-sheet and the CCTV footage transcript provided by the learned APP show that at 21.36.45 hours the applicant was found removing the key of the motorcycle of the deceased. At 21.39.22 hours the applicant was found proceeding towards petrol pump towards deceased. At 21.39.50 hours the deceased was found falling from the motorcycle and the witnesses Sachin Champalal Ghungase and Baba Kayyum Shaikh were found lifting him. At that very movement the deceased was found running towards the applicant in the direction of petrol pump. The witnesses also were seen following the deceased.

6. The witnesses under Section 161 of the Code of Criminal Procedure i.e. Sachin Champalal Ghungase and Baba Kayyum Shaikh have stated that the deceased was being beaten by the applicant and was being dragged towards the DP. However, in the statement under Section

164 of the Criminal Procedure Code they did not say anything about this incident. Therefore, it appears that there is no prima facie case to indicate that the applicant is the author of the crime.

7. Moreover charge-sheet is filed. There is no possibility of the applicant fleeing from justice. Considering the pandemic situation created by COVID-19 trial is not likely to be completed in the near future. I am, therefore, inclined to release the applicant on bail. Hence the order.

#### **ORDER**

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one solvent surety in the like amount in connection with CR No. 12 of 2021 under Section 302 of the Indian Penal Code registered with Paithan Police Station, Aurangabad Gramin.
3. Application is disposed of.

**[M. G. SEWLIKAR, J.]**

ssp